

**ZONING BOARD OF APPEALS**

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ZBA 2010-23
Petition of CVS Pharmacy
180 Linden Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 1 2010 at 7:30 p.m. at the Town Hall, 525 Washington Street, Wellesley, on the petition of CVS PHARMACY LLC requesting renewal of a Special Permit pursuant to the provisions of Section XI, Section XIVG and Section XXV of the Zoning Bylaw to allow it to use its premises at 180 LINDEN STREET for a two lane drive-through facility, namely a drive-through window and one pneumatic tube facility for CVS Pharmacy, where business is transacted from the vehicles of customers or patrons, which is a use not allowed by right in the Linden Street Corridor Overlay District.

On March 15, 2010, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Brian Levey, who said that he was representing Massachusetts CVS Pharmacy (the "Petitioner"). He said that the request is to renew the Special Permit for a drive-through facility at 180 Linden Street. He said that this is the second renewal of the Special Permit.

Mr. Levey said that also present were the Store Manager, Jennifer Deet and the District Manager, Seth Josephs.

Mr. Levey said that there have been no problems with traffic circulation or pedestrian safety. He said that the Petitioner has been compliant with the conditions of the Special Permit in terms of lighting and signage.

Ms. Deet said that the hours of operation for the facility are between 7 a.m. to 10 p.m. She said that the pharmacy is open from 8 a.m. to 10 p.m.

The Board said that Condition 2 of the Special Permit was that there shall be a "Right Turn Only" sign after the pickup and drop off area. The Board said that there are currently two "No Left Turn" signs, which results in the same effect.

The Board said that Condition 3 should read, "Canopy lighting shall be recessed in the soffit of the canopy."

The Board said that Condition 4 should read, "Any additional signage shall be subject to review by the Board of Appeals."

The Board said that the lights for the drive-through should be shut off at the earlier of the close of business or 10 p.m.

There was no one present at the Public Hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 180 Linden Street, in the Linden Street Corridor Overlay District, where business transacted from the vehicles of customers or patrons is a use not allowed by right. The property is owned by FR Linden Square Inc. and is occupied by CVS Pharmacy. The drive-through facility will consist of two lanes, one lane having direct access along the building for hand-to-hand prescription service and an outer lane having a pneumatic tube facility for prescription drop off service. Access to the drive-throughs is made from the southeasterly end of the building.

The Development Agreement limits the hours of operation of the drive-through facilities to 10:00 p.m.

On March 30, 2010 the Planning Board reviewed the petition and recommended that the petition be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. A Special Permit is required pursuant to Section XI, Section XIVG and Section XXV of the Zoning Bylaw, as a drive-through facility where business is transacted from the vehicles of customers or patrons, is not a use allowed by right in the Linden Street Corridor Overlay District.

It is the opinion of this Authority that the traffic circulation pattern shall not create a dangerous situation in the parking lot, and that the use of the premises to contain a 2-lane drive-through facility for direct access along the building for hand-to-hand prescription service and an outer lane having a pneumatic tube facility for prescription drop off service is in harmony with the general intent and purpose of the Zoning Bylaw.

Therefore, a Special Permit is granted to CVS Pharmacy LLC, as voted unanimously by this Authority at the Public Hearing, for the use of its premises for two drive-through facilities, subject to the following conditions:

1. Drive-through facility lights shall be turned off at the earlier of 10:00 p.m. or the close of business.
2. There shall be a "Right Turn Only" sign after the pickup and drop off area.
3. Canopy lighting shall be recessed in the soffit of the canopy.
4. Any additional signage shall be subject to review by the Board of Appeals

This Special Permit shall expire two years from the date time stamped on this decision.

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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Acting Chairman

Robert W. Levy

David G. Sheffield

cc: Planning Board
Inspector of Buildings
lrm